

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.

PRINCE F. MACAULEY,

★ JAN 27 2005 ★

Plaintiff, BROOKLYN OFFICE

-against-

THE CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT, DETECTIVE JAMES
HAYES (Shield #5804), individually and in his official
capacity, DETECTIVE EDWIN MURPHY, individually
and in his official capacity, DETECTIVE HOLMES
CANOVAS, individually and in his official capacity,

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISMISSAL**

DLI
CV-02-4770 (~~CBA~~) (ASC)

Defendants.

-----X

WHEREAS, plaintiff commenced this action by filing a complaint on or about August 29, 2002, alleging that certain of his federal and state rights were violated; and

WHEREAS, defendants New York City Police Department, James Hayes, Edwin Murphy, and Holmes Canovas have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay the plaintiff the sum of FIFTY EIGHT THOUSAND DOLLARS (\$58,000.00) in full satisfaction of all claims, including claims

for costs, expenses and attorney fees. In consideration for the payment of this sum, plaintiff agrees to the dismissal of all the claims against defendants City of New York, New York City Police Department, James Hayes, and Edwin Murphy, and to release all defendants and any and all present and former employees and agents of the City of New York from any and all liability, claims, or rights of action arising from and contained in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Defendant Holmes Canovas hereby agrees to pay the plaintiff the sum of TWO THOUSAND DOLLARS (\$2,000.00) in full satisfaction of all claims, including claims for costs, expenses and attorney fees. In consideration for the payment of this sum, plaintiff agrees to the dismissal of all the claims against defendant Holmes Canovas and agrees to release him from any and all liability, claims, or rights of action arising from and contained in the complaint in this action, including claims for costs, expenses and attorney fees.

4. Plaintiff shall execute and deliver to the City attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph "2" above and an Affidavit of No Liens.

5. In consideration of the City's payments as specified in paragraph 2 above, co-defendant Holmes Canovas shall also execute and deliver to the City attorney a General Release that dismisses all claims against defendant City of New York, and any and all present and former employees and agents of the City of New York from any and all liability, claims, or rights of action arising from and contained in the pleadings in this action, including claims for costs, expenses, attorney fees, indemnification, and contribution.

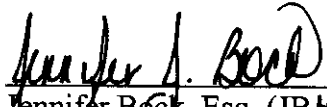
6. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of

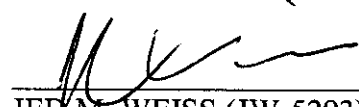
the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

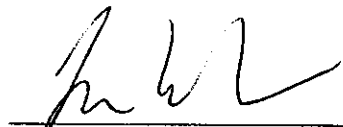
7. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or the New York City Police Department.

8. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
December 14, 2004


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Attorney for Holmes Canovas 9398
Dienst & Serrins
233 Broadway - 18th Floor
New York, NY 10279

Dated:
Brooklyn, NY
January 26, 2005
SO ORDERED:

s/Dora L. Irizarry
Honorable DORA L. IRIZARRY
USDJ

Please note that all parties in this case are in violation of this Court's ECF requirements. In the future any submissions not electronically filed shall be rejected and parties shall be sanctioned. This matter also was reassigned to Judge Irizarry on Sept. 8, 2004.



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January 24, 2005

BY HAND *DORA L. IRIZARRY*

Honorable ~~Carol Bagley Amen~~
United States District Judge
United States Courthouse
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Prince F. MacCaully v. City of New York, et al.
02-CV-4770 ~~(CBA)~~ (ASC)
(DLI)

Your Honor:

The above-referenced case was settled by the parties in the amount of \$60,000.00. Enclosed please find a Stipulation and Order of Settlement and Dismissal, signed by the parties, for your endorsement and filing.

Respectfully,

Jed M. Weiss [JW 5293]
Assistant Corporation Counsel

cc: Jennifer Bock, Esq., Attorney for Plaintiff
James Moschella, Esq., Attorney for Holmes Canovas